

**IN THE MATTER OF THE APPLICATION REGARDING CONVERSION**  
**OF PREMIER BLUE CROSS AND ITS AFFILIATES**

Washington State Insurance Commissioner's Docket # G02-45

**PRE-FILED RESPONSIVE TESTIMONY OF:**

**E. Lewis Reid**

April 15, 2004

CONFIDENTIAL and PROPRIETARY  
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1

2 **Q. Are you the same E. Lewis Reid who previously filed reports and testimony**  
3 **in this proceeding?**

4

5 A. Yes. I filed an initial report dated November 10, 2003, and a supplemental report  
6 dated February 5, 2004. I also filed prefilled direct testimony on March 31, 2004.

7 **Q. Have you read the reports and testimony filed by other consultants and**  
8 **experts in this proceeding?**

9

10 A. I have read the reports and testimony that pertain to my area of testimony. In  
11 particular, I have read the reports of PricewaterhouseCoopers, Cantilo & Bennett and the  
12 Blackstone Group referred to in my initial and supplemental reports. I have also read the  
13 testimony filed by Intervenors and the OIC witnesses on March 31, 2004, and the  
14 depositions of Mr. Lundy given November 17, 2003 and March 10, 2004.

15 **Q. Do you have a response to any of the matters set forth in those reports and**  
16 **direct testimony?**

17

18 A. Yes. I would like to respond to testimony on the following subjects:

19

- The role of health foundations in our communities,

20

- The value of the New PREMERA stock to the Charitable Foundations,

21

- The use of a section 501(c)(4) entity as the Washington Foundation,

22

- The independence of the Washington Foundation,

23

- The board of directors of the Washington Foundation, and

24

- The charitable purposes of the Washington Foundation.

**THE ROLE OF HEALTH FOUNDATIONS**

**Q. Do you agree with Aaron Katz that the Washington Foundation would not provide a significant benefit to the residents of the state of Washington?**

A. Mr. Katz argues that the Charitable Foundations will not be large enough to bridge the health gap by subsidizing coverage for the uninsured.<sup>1</sup> Indeed, the annual health budgets of Washington and Alaska are measured in billions, and the distributions of the Charitable Foundations probably will be measured in the tens of millions annually. But the argument raised by Mr. Katz glosses over the role of health foundations in improving the health of our communities in California and elsewhere. The work of health foundations is not to subsidize insurance for the uninsured or to make up governmental health care budget shortfalls.

Our health care delivery system, combining governmental and private providers and payors, can accomplish a great deal. However, there are factors important to our health that are not addressed adequately by our current health care delivery system. In pre-filed testimony, Mr. Katz as well as Mr. Dauner focus largely on mechanics of the delivery system, reimbursement rates and insurance costs -- not on other determinants of health. Behavior and environment are actually more important to our health than the delivery system. Unhealthy behaviors, such as smoking, bad diet, alcohol and drug abuse, lack of exercise, and unsafe sex, harm our health and add huge amounts to our health care costs. Environmental factors, as an example, are contributing to staggering levels of asthma in some minority populations. Health foundations tackle these problems in many ways that providers and payors, public and private do not.

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<sup>1</sup> Supplemental Report of Aaron Katz at 6-9.

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1 I am sure Mr. Katz would not minimize the importance of health policy research,  
2 such as that funded by The Kaiser Family Foundation, The Commonwealth Fund, The  
3 Robert Wood Johnson Foundation, the California HealthCare Foundation, the  
4 Washington Health Foundation and many others. As he acknowledged in his deposition,<sup>2</sup>  
5 health foundations provide funding for health policy research in our universities  
6 throughout the country.<sup>3</sup> Mr. Katz cites the Kaiser Family Foundation's work in his  
7 report. If one searches the term "Kaiser Family Foundation" on the Internet, one will see  
8 over 400,000 hits that demonstrate the breadth and depth of the impact of a foundation  
9 having assets of about \$500 million. Kaiser's \$500 million is at the low end of the  
10 amount expected to be transferred to the Washington and Alaska foundations in the  
11 conversion of Premera.

12 Health foundations tend to try to find approaches that leverage their investments,  
13 striving for health impacts out of proportion to the size of their expenditures. Funding  
14 scholarships for minority nursing students, making low cost seed money loans, awarding  
15 matching grants, conducting policy research, funding pilot projects for later government  
16 replication, and the collecting and disseminating health status data are all examples of  
17 tactics that can achieve long term leverage.

18 So while Mr. Katz is right that Washington's health budget is massive when  
19 compared to the potential assets of the Washington Foundation, he trivializes the  
20 potential of the Washington Foundation for the health of communities, by comparing its  
21 charitable budget to speculation about how many more people might be uninsured if

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<sup>2</sup> Copies of the referenced pages are attached hereto as Exhibit A.

<sup>3</sup> Katz Deposition at 61-62 (April 8, 2004).

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1    Premera is permitted to convert. In my opinion, the benefits of the Washington  
2    Foundation to the people of Washington will far outweigh Mr. Katz's hypothetical risks.

3    **Q.     Duane Dauner claims that the WellPoint conversion has caused declining**  
4    **levels of health care service and coverage in California. Please comment on**  
5    **Mr. Dauner's allegations.**

6  
7    **A.**Mr. Dauner, a Sacramento hospital advocate, blames many of California's health  
8    care problems on the Blue Cross of California conversion.<sup>4</sup> These assertions are not  
9    substantiated in his testimony. In fact, problems in the delivery of health care in  
10   California are long-standing and predate the California Blue Cross conversion by many  
11   years. With no substantial evidence, Mr. Dauner implies that the Blue Cross of  
12   California conversion caused these problems. But he does not mention rising health care  
13   costs, the fiscal crisis in Sacramento, cultural barriers to enrollment in public programs,  
14   inadequate reimbursement rates in public programs, problems in retaining clients enrolled  
15   in public programs or myriad other contributors to the current state of health care in  
16   California.

17           Mr. Leo Greenawalt gave an example of one of the more serious systemic  
18   problems when he admitted that Washington hospitals must depend upon private insurers  
19   for a cross subsidy to fund the shortfall in Medicare and Medicaid reimbursements.<sup>5</sup> The  
20   ills of a state's health care system cannot honestly be laid at the door of a single carrier's  
21   conversion, whether it is Blue Cross in California or Premera in Washington and Alaska.  
22   A conversion can, however, create an opportunity for foundations to be new long term  
23   significant participants in the effort to improve health.

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<sup>4</sup> Direct Testimony of Duane Dauner ("Dauner Direct") *passim*.

<sup>5</sup> "In 2002, Washington hospitals were paid only 94 percent of their costs from Medicare and 92 percent of their costs from Medicaid. Hospitals depend on private payors to make up this deficit." Direct Testimony of Leo Greenawalt at 3.

1 **Q. Referring to the foundations created in the conversion of Blue Cross of**  
2 **California, Mr. Dauner asserts that “While these two foundations do “good’**  
3 **on many fronts, the provision of coverage to more people at affordable prices**  
4 **has suffered.”<sup>6</sup> Do you agree?**

5  
6 A. Absolutely not. Mr. Dauner is apparently unaware of the considerable efforts of  
7 California’s health foundations to improve access to health care. For one example, while  
8 the state of California was cutting its expenditures for outreach to enroll eligible  
9 Californians in its federal Children’s Health Insurance Program (“CHIP”) and Medicaid  
10 programs, the California HealthCare Foundation (“CHCF”) spent its money on an  
11 innovative program that is paying big dividends both in building enrollment and in  
12 reducing the cost of enrollment in those programs. CHCF commissioned the design of a  
13 software product, “Health-e-App,” that contains eligibility criteria for CHIP and  
14 Medicaid programs. An enrollment worker for a community based organization,  
15 community clinic or a county public health department can now interview potential  
16 clients in the field, collect their enrollment data on the spot and enroll the applicant’s  
17 family electronically over the Internet. The State of California adopted CHCF’s  
18 invention, and 30% of enrollments in these state programs are now electronic. Under the  
19 old system, the applicant had to go from office to office (often facing language barriers)  
20 to determine eligibility, and to apply separately to qualify family members for each  
21 program. The technology has now been licensed for use in other states, and two other  
22 states are now using it for enrollment in their CHIP and Medicaid programs. “One-e-  
23 App,” a local version for simultaneous eligibility determination and enrollment across a  
24 range of health care programs, is in pilot testing in several counties in California.

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<sup>6</sup> Dauner Direct at 4.

1

2 **Q. Calvin M. Pierson also asserts that the WellPoint conversion has caused**  
3 **“problems” in California. Please comment.**

4

5 A. Mr. Pierson, President of the Maryland Hospital Association, who does not appear  
6 to have first hand experience in the California health care field, cites for-profit health  
7 carriers in general, and WellPoint in particular, as the source of dissatisfaction with  
8 California health care. In my personal experience, many in California are dissatisfied  
9 with the service provided by nonprofit and for-profit health carriers alike. Moreover, Mr.  
10 Pierson makes no reference to the substantial benefits created by roughly \$6.0 billion of  
11 charitable foundations that exist in California as a result of health care conversions.

12 The “risks” identified by Mr. Pierson’s are merely hypothetical, but the benefits  
13 of the Washington Foundation to the people of Washington -- an endowment of more  
14 than \$500 million for health improvement -- are calculable and certain.

15

**TRANSFER OF VALUE**

16

17 **Q. Shawn Cantrell<sup>7</sup> and other witnesses<sup>8</sup> suggest that the value of Premera’s**  
18 **assets will not be transferred to the Health Foundations because of the**  
19 **restrictions in the Voting Trust and other agreements. Do you agree?**

20

21 A. No. The argument rests in part on the faulty assumption that the enterprise,  
22 though a Blue Cross Blue Shield Association (“BCBSA”) licensee, has a value  
23 independent of the license terms, and that the license restrictions reduce the value  
24 transferred. The assertion that the license restrictions reduce the value of the business is  
25 inconsistent with concerns about how much the value of the business would decline if the

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<sup>7</sup> Pre-filed Testimony of Shawn Cantrell (“Cantrell Direct”) at 5.

<sup>8</sup> For example, Patrick Cantilo asserts that the restrictions contained in various agreements among and between PREMERA, the Foundation Shareholder and the Charitable Organizations “may prevent the Foundation Shareholder, or the proposed Charitable Organizations, from receiving Premera’s fair market value.” Final Report of Cantilo & Bennett at 23 (Oct. 27, 2003).



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1 BCBSA license were lost. Blue Cross is one of the premier brands in the industry and to  
2 retain that brand, Premera must agree to the licensor's restrictions. According to the  
3 Blackstone Group, "Once Premera is public, the loss of the BCBSA mark may  
4 significantly impair Premera's valuation in the market place."<sup>9</sup> Blackstone also has  
5 confirmed that the OIC and its legal counsel have advised that "an IPO conducted in a  
6 reasonable and customary manner could deliver fair market value to the Washington  
7 Foundation."<sup>10</sup>

8 As I stated in my supplemental report, the provisions of the Voting Trust and  
9 Divestiture Agreement and the Registration Rights Agreement include limitations on  
10 voting rights and divestiture requirements. The timing of sales of New PREMERA stock  
11 will be affected by the agreements' divestiture timetable and by piggy-back and demand  
12 registration rights. The argument that these restrictions may prevent the Health  
13 Foundations from receiving New PREMERA's value overlooks the fact that the  
14 restrictions may, in fact, increase the value of the New PREMERA stock and the  
15 resulting sales proceeds. By providing more certainty about the divestitures and  
16 preventing the Health Foundations from sitting on their holdings indefinitely, the  
17 restrictions may protect the stability and the health of the market in the New PREMERA  
18 stock. Operating under similar restrictions, the value of WellPoint stock in the hands of  
19 California HealthCare Foundation increased steadily over five years until the final  
20 divestiture sales were at a price roughly triple the price at the time of the conversion.

21 In any event, the discussion of fair market value is a distraction. Premera has no  
22 obligation to convert to for-profit status, and it acknowledges no obligation to commit its

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<sup>9</sup> The Blackstone Group, Update Report on Valuation and Fairness of the Proposed Conversion ("Blackstone Update") at 16.

<sup>10</sup> Blackstone Update at 15.

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1 assets to charity. Nevertheless, Premera proposes to transfer 100% of the initial stock of  
2 New Premera to the Health Foundations on the day the Conversion Transaction closes.  
3 The BCBSA license restrictions are inherent in the business, inherent in operating as a  
4 licensee and linked to the commercial benefit of the right to use the name and mark.  
5 Even if there were a charitable trust imposed on its assets (and there is not), Premera  
6 would not have an obligation to transfer any more than the entire enterprise to charity.  
7 Thus, in my opinion, the value of the enterprise will be transferred under the proposed  
8 conversion.

9 **Q. Diane Sosne and Mr. Cantrell also suggest that the restrictions in the Voting**  
10 **Trust will unduly limit the independence of the Washington Foundation. Do**  
11 **you agree?**  
12

13 A. No. The Health Foundations are not typical long term institutional investors.  
14 They will be stakeholders in Premera during its transition from nonprofit status (where it  
15 has no shareholders) to a widely held company (where it will have no controlling  
16 shareholders.) They will be divesting the shares both under the transactional agreements  
17 and because of the need to diversify assets and raise funds for charitable activities.

18 Both the Internal Revenue Service and the BCBSA recognize the need to limit the  
19 influence of the foundation over the converted company in this transition period. Were  
20 the Health Foundations organized as section 501(c)(3) private foundations, they would  
21 confront Internal Revenue Service rules that similarly discourage foundation control of  
22 converted companies. The normal Internal Revenue Service rule that a private  
23 foundation must reduce its holdings in a business to less than 20% in five years, is  
24 relaxed to 35% if someone other than the foundation (together with its disqualified

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persons) has effective control of the corporation.<sup>11</sup> The California Wellness Foundation is a \$1.0 billion health foundation created in the conversion that established for-profit HealthNet in California. Because of the IRS rule – although the company was not a BCBSA licensee – 80 per cent of the stock received by the Wellness Foundation in the conversion was nonvoting. Only 20 per cent of the stock had voting rights. Under the terms of the Voting Trust, and with the veto power given to the Washington Foundation by ownership of a second class of stock, the Washington Foundation will have greater influence over the affairs of New PREMIERA than if it received nonvoting stock to comply with the Internal Revenue Service private foundations rules.

**TAX STRUCTURE**

**Q. Mr. Cantrell<sup>12</sup> and others<sup>13</sup> have both urged that the Health Foundations should be organized to be tax exempt as section 501(c)(3) private foundations, rather than section 501(c)(4) entities. Do you agree?**

A. No. As I mentioned in my supplemental report, if they are tax exempt under section 501(c)(4), the Health Foundations will enjoy benefits not shared by a section 501(c)(3) private foundation. These include:

- No tax on the sale of New Premera stock (as opposed to the section 501(c)(3) private foundation's excise tax of up to 2% which could amount to \$10 million to \$15 million depending upon the proceeds of the sale of the stock);<sup>14</sup>
- No Internal Revenue Code requirement to divest the New Premera stock (as opposed to the section 501(c)(3) private foundation's five year divestiture requirement);<sup>15</sup> and

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<sup>11</sup> Internal Revenue Code section 4943(c).

<sup>12</sup> Cantrell Direct at 6.

<sup>13</sup> See, e.g., Prefiled Testimony of Dennis G. McMillian ("McMillian Direct") at 3.

<sup>14</sup> Internal Revenue Code section 4940.

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- 1           • No prohibition on certain agreements with New Premera that provide more  
2 flexibility in the sale of New Premera stock (as opposed to the section  
3 501(c)(3) private foundation's restrictions that could interfere with the  
4 performance of the Registration Rights Agreement).<sup>16</sup>

5           In short, using a section 501(c)(3) private foundation would divert millions from  
6 charitable uses to federal tax, and would hamper flexibility in the sale of the New  
7 PREMERA stock, potentially reducing the ultimate sale proceeds to the Washington  
8 Foundation.

9       **Q.     Are you familiar with the reports of Joseph Lundy?**

10

11       A.     Yes, I have reviewed Mr. Lundy's original report (October 27, 2003), his  
12 supplemental report (February 27, 2004), and his more recent report (March 29, 2004). I  
13 have also reviewed his depositions taken on November 17, 2003 and March 10, 2004.<sup>17</sup>

14       **Q.     Do the conclusions reached by Mr. Lundy differ substantially from your**  
15               **own?**

16

17       A.     No. In fact, Mr. Lundy has specifically endorsed the conclusions set forth in my  
18 reports. Attached as Exhibit A are excerpts from Mr. Lundy's depositions taken on  
19 November 17, 2003, and March 10, 2004, in which he testifies as follows:

- 20           • He agrees that the Premera proposal accomplishes the goal that has been  
21 sought by state attorneys general in some other conversion cases—namely, to  
22 set aside the value of conversion proceeds for charitable use.<sup>18</sup>

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<sup>15</sup> Internal Revenue Code section 4943.

<sup>16</sup> Internal Revenue Code section 4941.

<sup>17</sup> Joseph Lundy, a PwC consultant, has submitted pre-filed testimony in this matter and incorporated therein three reports: Exhibit "S-12" (pp. E-1 to E-49), Exhibit "S-13" (pp. E-1 to E-53), and Exhibit "S-15" (pp. E-54 to E-61).

<sup>18</sup> Lundy Deposition at 86-87 (Nov. 17, 2003).

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- 1           • He agrees with my statement that “[t]he Conversion Transaction serves the  
2           public interest by permitting Premera to continue as a vital company with  
3           access to the capital markets, while unlocking the charitable potential in its  
4           assets by adding two new large sources of philanthropic health funding in the  
5           states of Washington and Alaska.”<sup>19</sup>
- 6           • He agrees that “[t]he structure of the Proposed Transaction will maximize the  
7           potential economic benefit to charities by minimizing the taxes incurred in the  
8           process of realizing the value of the initial stock of New Premera . . . .”<sup>20</sup>
- 9           • He agrees that “[a]t the present time, the entire value of Premera is held in its  
10          taxable nonprofit corporate structure.”<sup>21</sup>
- 11          • He agrees that “[g]iven the practice of charities to pursue programs that  
12          leverage their assets for greater social impact, [the foundations’] influence  
13          could well be much greater than the size of their endowments.”<sup>22</sup>
- 14          • He agrees that the proposed conversion transaction is designed to deliver the  
15          maximum value for charity.<sup>23</sup>
- 16          • He has no reason to disagree with my statement that the restrictions under  
17          which shares were distributed to foundations in California did not cause any  
18          problems to those foundations. His general understanding is that the  
19          California experience was positive and resulted in public benefits.<sup>24</sup>

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<sup>19</sup> *Id.* at 122.

<sup>20</sup> *Id.* at 123.

<sup>21</sup> *Id.* at 123, 125-6.

<sup>22</sup> *Id.* at 126.

<sup>23</sup> *Id.* at 127-128.

<sup>24</sup> *Id.* at 132.

1 In summary, he generally agrees with my original report, and has “no significant  
2 disagreements with it.”<sup>25</sup> With respect to my supplemental report, he does not disagree  
3 with my discussion of tax issues raised by Premera’s amended conversion proposal.<sup>26</sup>  
4 More generally, Mr. Lundy does not disagree with any conclusion or assertion in my  
5 supplemental report.<sup>27</sup> My pre-filed direct testimony reflects the same conclusions as my  
6 supplemental report.

7 **Q. What is your view of Mr. Lundy’s most recent report (Exhibit “S-15”)?**

8  
9 **A.** Mr. Lundy examines the proposed Unallocated Shares Escrow Agent Agreement  
10 from a tax standpoint and concludes that the escrow agent’s receipt of income is unlikely  
11 to create tax liability. If the USEA Agreement is necessary (i.e., if the states do not agree  
12 upon an allocation of conversion proceeds before the conversion becomes effective), Mr.  
13 Lundy proposes that Washington and Alaska agree upon a method of reporting income  
14 arising from the escrowed shares, for tax purposes only and without prejudice to their  
15 positions regarding final allocations. I agree that his proposal makes sense. The most  
16 straightforward way to solve this problem, however, would be for the states to agree on  
17 an allocation so that the USEA Agreement would be unnecessary.

18 **FOUNDATION INDEPENDENCE**

19 **Q. Ms. Sosne,<sup>28</sup> Mr. Cantrell<sup>29</sup> and others question whether the Health**  
20 **Foundations will be sufficiently independent of the influence of New**  
21 **PREMERA. Do you believe the Health Foundations will be independent if**  
22 **they are created under the current proposal?**  
23

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<sup>25</sup> *Id.* at 135.

<sup>26</sup> Lundy Deposition at 77-78 (Mar. 10, 2003).

<sup>27</sup> *Id.* at 84.

<sup>28</sup> Pre-filed Testimony of Diane Sosne, R.N. at 4.

<sup>29</sup> Cantrell Direct at 5-6. Mr. Cantrell may not have seen the Amended Form A since several of his suggestions were incorporated in the amendments.

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1 A. Yes. Amended Form A made significant changes from the provisions of the  
2 original Form A filing. For example, New PREMERA's right of observation of the  
3 Washington Foundation's board deliberations was eliminated. Also, the right to select a  
4 pre-closing board of directors, and the post closing board of directors was vested in the  
5 Attorney General. With those changes, the Washington Foundation will have more  
6 independence from the converted company than in any other conversion with which I  
7 have been personally involved.

8 **Q. Several witnesses from Alaska have also raised the issue of independence of**  
9 **the Health Foundations. Can you address their concerns?**  
10

11 A. I have addressed the issues raised by these Alaska witnesses in my testimony and  
12 reports filed in the Alaska proceeding.

13 **CHARITABLE PURPOSES**

14 **Q. Mr. McMillian also contends that restrictions on the use of foundation funds,**  
15 **limiting their expenditure solely to grants to section 501(c)(3) entities should**  
16 **be conformed to the broader purposes of the Washington Foundation**  
17 **contained in the articles of incorporation.<sup>30</sup> What is your opinion on this**  
18 **issue?**  
19

20 A. I discussed this issue in some detail in my supplemental report.<sup>31</sup> In connection  
21 with the closing of the Conversion Transaction, the Washington Foundation will execute  
22 the Transfer, Grant and Loan Agreement. A proviso in the agreement says its assets may  
23 be used "solely" to make "grants" to section "501(c)(3)" entities. This restriction limits  
24 the broader purposes in the Articles of Incorporation. Health foundations customarily do  
25 not use their assets "solely" to make "grants." Nor do they make grants "solely" to  
26 section "501(c)(3)" entities. Broadening the language in the Transfer, Grant and Loan  
27 Agreement to match the Articles of Incorporation would enable the Washington

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<sup>30</sup> McMillian Direct at 4.

<sup>31</sup> Reid Supplemental Report at 14-15.

1 Foundation to conduct routine foundation affairs, and to realize the vision of the mission  
2 stated in its Articles of Incorporation.

3 The testimony of Kent Marquardt made a correction that would permit grants to  
4 organizations exempt under section 501(a) rather than only 501(c)(3). That correction  
5 would respond to one half of the language problem by permitting grants to organizations  
6 exempt under sections section 501(c)(3), 501(c)(4), section 501(c)(5) and section  
7 501(c)(6) of the Internal Revenue Code. The word “solely” should also be removed to  
8 solve the other half of the problem, enabling the Washington Foundation to conduct its  
9 affairs and carry out non-grant programs.

10 **FOUNDATION BOARD OF DIRECTORS**

11 **Q. Scott Benbow of the Consumers Union has submitted testimony that suggests**  
12 **the creation of a Planning Committee under the supervision of the**  
13 **Commissioner.<sup>32</sup> Please comment on Mr. Benbow’s suggestion.**  
14

15 **A.** I do not know whether that would be permissible under the scope of the  
16 Commissioner’s duties under Washington law. Whether permissible or not, in my  
17 opinion, Mr. Benbow’s suggestion is impractical and unnecessary for the following  
18 reasons:

- 19 • The purposes of the Articles of Incorporation and Bylaws are already broader  
20 than those of other health foundations with which I am familiar, and  
21 encompass essentially the same purposes Mr. Benbow suggests,  
22 • Much of the suggested work of gathering views of community stakeholders  
23 has been underway for many months already,

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<sup>32</sup> Pre-filed Testimony of Scott Benbow at 6-10.



- 1           • The proposed Planning Committee would duplicate the work that must be  
2           done by the “Third” post-closing board of directors,
- 3           • Jurisdictional confusion could be created. The Attorney General is given  
4           jurisdiction over selection of the board of directors. Mr. Benbow suggests that  
5           the Commissioner oversee the selection and operation of the Planning  
6           Committee. In California, some years ago, an important conversion ended up  
7           in litigation over conflicting jurisdictional assertions of the Attorney General  
8           and Department of Corporations, and
- 9           • The Attorney General should engage in a wide-ranging search in order to  
10          obtain a broadly representative board of directors, and a prior similar search  
11          by the Commissioner will only delay the realization of the charitable potential  
12          of the Washington Foundation. According to Benbow, the proposal would  
13          delay the implementation of the Washington Foundation for up to a year.<sup>33</sup>

14          Although I do not believe Mr. Benbow’s proposed Planning Committee is  
15          practical, I do believe that the Attorney General should carry out the search for board  
16          members with deliberate outreach to all communities within the state, and with a general  
17          point of view consistent with that contained in Mr. Benbow’s proposal.

18      **Q.     Is the proposed process for selecting the board of directors of the**  
19      **Washington Foundation practical and fair?**

20  
21      A.     The selection of both the “second” (pre-closing) and “third” (post closing) boards  
22      of directors of the Washington Foundation is vested in the Attorney General by the  
23      Amended Form A documents. The process can be practical and fair, depending upon  
24      how the Attorney General discharges that responsibility. I understand that Premera has

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<sup>33</sup> *Id.* at 9.

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1 already engaged community groups in workshops to provide input into the purposes of  
2 the Washington Foundation. The Attorney General should follow the philosophy  
3 underlying those workshops, continue to obtain community input and conduct a wide-  
4 ranging search to assure the appointment of a broadly representative, non-political,  
5 diverse board for the foundation.

6 The California model for board selection, administered by Blue Cross of  
7 California itself, has drawn praise from the Consumers Union. It employed an ethnically  
8 diverse consortium of search firms that identified an initial pool of over 1,000 potential  
9 candidates. Names of potential candidates were solicited from individuals and groups  
10 throughout the state. The identities of the candidates were not known outside the search  
11 firms until the pool had been reduced to significantly less than 100 candidates. The  
12 Commissioner of Corporations retained a veto over any nominee, but having seen the  
13 final pool of about 25 candidates, he accepted all of the candidates. The final choices fell  
14 to those Blue Cross of California board members who were leaving that board to join the  
15 board of either of the two foundations created in the transaction. The boards were  
16 staggered with maximum eligibility of three terms of three years each.

17 **Q. Does that conclude your testimony?**

18  
19 **A. Yes.**

20

1

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**VERIFICATION**

3

4

5

I, E. Lewis Reid, declare under penalty of perjury under the laws of the State of  
Washington that the foregoing answers are true and correct.

6

7

Dated this \_\_\_\_ day of April 2004, at \_\_\_\_\_, California.

8

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\_\_\_\_\_  
/s/  
E. LEWIS REID

# **EXHIBIT A**

**E. Lewis Reid**

**EXHIBIT A**

BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON

In the Matter of the Application )  
Regarding the Conversion and ) CAUSE NO. G 02-45  
Acquisition of Control of Premera Blue )  
Cross and its Affiliates. )

DEPOSITION UPON ORAL EXAMINATION OF

AARON KATZ

April 8, 2004  
Seattle, Washington

Taken Before:

PAMELA J. KLESSIG, RPR, CCR No. 2948  
Registered Professional Reporter

of

CAPITOL PACIFIC REPORTING, INC.

2401 Bristol Court S.W.

Olympia, WA 98502

Phone: (360) 352-2054

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e-mail: capitol@callatg.com

1 health philanthropy?

2 A Well, the one that I can think of would be the Gates  
3 Foundation.

4 Q Any other foundation?

5 A None that come to mind.

6 Q The Robert Wood Johnson Foundation?

7 A The Robert Wood Johnson Foundation is a very important  
8 foundation in healthcare, but - and I don't recall when they  
9 started in the - I think it was in the 1970s, whether there  
10 was a feeling that there was a burst. But I wouldn't call  
11 their charitable giving, which is national - I mean I  
12 wouldn't characterize it as a burst.

13 Q Is the only thing in the Reid report that you disagree with  
14 Mr. Reid's statement about the foundation resulting in a  
15 burst of health philanthropy?

16 A No, I use that here to represent what I thought - the way  
17 that that report was characterizing the creation of this  
18 foundation. It talks about - I think it estimates - or I  
19 don't know if it estimates, but suggested that there might be  
20 500 to 600 million dollars in this new foundation, as if  
21 there would be 500, 600 million dollars flowing through the  
22 healthcare system. It never talks about - I don't think the  
23 report ever talked about the fact that the foundation might  
24 well be giving out five percent of that, the equivalent of  
25 five percent of that, which is a very different

1        characterization. Whether the foundation is giving out 30  
2        million dollars or five to 600 million dollars, you know,  
3        you're really talking about a very different kind of impact  
4        on the healthcare system. So that's - so it's not just this  
5        statement, but I thought generally the way the report  
6        characterized the impact was not consistent with my  
7        understanding of how - of the impact of the foundation grant  
8        making.

9        Q    And in your view, is a foundation that is valued at four or  
10        five or six or 700 million dollars and paying out five  
11        percent of its endowment each year, making an important  
12        contribution to healthcare in the states of Washington and  
13        Alaska?

14        A    Well, I mean, I guess I would say first that that's not  
15        really what I'm addressing here. That is, the question is  
16        whether the benefits of the foundation somehow balance out  
17        the potential negative impacts that we identified in the HPAP  
18        report. Of course it's the case that if, you know, somebody  
19        starts putting in 30 million dollars, I mean I'd be a fool,  
20        being a university research-based, research-funded faculty to  
21        say well, no, that would be a terrible thing. Of course it  
22        wouldn't be a terrible thing. You can do some good things  
23        with 30 million dollars or 40 million dollars a year. The  
24        question is whether the benefits somehow balance or outweigh  
25        those potential negative effects. And that was the reason

1 Analysis Program for the Department of Health Services at the School of Public Health and  
2 Community Medicine (University of Washington).

3 4. I expect to provide expert testimony at the hearing in this matter on behalf of the  
4 Intervenor. The issues and subjects on which I will provide testimony are contained in the  
5 following sources, which are incorporated herein by reference: (1) the November 10, 2003  
6 "Premera Conversion Study, Report 1" and "Premera Conversion Study, Report 2" that were  
7 prepared by the Health Policy Analysis Program at the School of Public Health and Community  
8 Medicine (University of Washington); (2) the March 3, 2004 Supplemental Report of Aaron  
9 Katz; and (3) my deposition testimony in this matter. Pursuant to the January 12, 2004 Order of  
10 the Special Master, I expect my testimony at the hearing to include the presentation and  
11 explanation of the information and opinions contained in these listed sources.  
12

13 I certify under penalty of perjury under the laws of the State of Washington that  
14 the foregoing is true and correct.  
15

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AARON KATZ  
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C E R T I F I C A T E

I, PAMELA J. KLESSIG, a duly authorized Court  
Reporter and Notary Public in and for the State of  
Washington, residing at Olympia, do hereby certify:

That the foregoing deposition of AARON KATZ,  
was taken before me on April 8, 2004 and thereafter  
transcribed by me by means of computer-aided transcription,  
that the deposition is a full, true and complete transcript  
of the testimony of said witness;

That the witness, before examination, was by me  
duly sworn to testify the truth, the whole truth and nothing  
but the truth, and that the witness RESERVED signature.

That I am not a relative, employee, attorney or  
counsel of any party to this action or relative or employee  
of any such attorney or counsel, and I am not financially  
interested in the said action or the outcome thereof;

That upon completion of signature, if required, I  
shall herewith securely seal the original deposition  
transcript and serve the same upon MS. RAMONA M. EMERSON,  
counsel for PREMERA and Premera Blue Cross.

IN WITNESS HEREOF, I have hereunto set my hand and  
affixed my official seal this April 10, 2004.

PAMELA J. KLESSIG

CCR License No. 2948

1                   BEFORE THE INSURANCE COMMISSIONER  
2                   OF THE STATE OF WASHINGTON  
3

4 In the Matter of the Application                   )  
5 regarding the Conversion and                    )  
6 Acquisition of Control of Premera Blue            )  
Cross and its Affiliates.                         )

No. G 02-45

7  
8                   DEPOSITION UPON ORAL EXAMINATION OF  
9                   JOSEPH E. LUNDY  
10                  November 17, 2003  
11                  Seattle, Washington  
12

13                                   **COPY**

14                   Taken Before:

15                   SUE E. GARCIA, CCR, RPR  
16                   Certified Court Reporter  
                      of  
17                   CAPITOL PACIFIC REPORTING, INC.  
                      2401 Bristol Court S.W.  
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1           In majority of the cases where there are examinations  
2           which result in revocation or tax adjustments, that is  
3           exactly what occurs. The facts and circumstances as were  
4           reported and proposed did not, in fact, turn out to be  
5           exactly in that fashion. Circumstances changed, and it was  
6           necessary to make adjustments. And in the adjustment  
7           process, from a tax perspective, some of the tax benefits may  
8           not continue to flow, and the IRS makes an appropriate  
9           determination.

10   Q     So what you're saying is the Service is not bound by initial  
11           determination of exempt status if the operations of the  
12           entity do not bear out what it was suggesting at the time of  
13           the application?

14   A     That's absolutely correct.

15   Q     If the on the other hand the entity acts in the fashion that  
16           was represented in the application, are you aware of any  
17           circumstances in which the Service has revoked that status?

18   A     Not retroactively certainly. Prospectively, I am aware of  
19           circumstances that it would, but not retroactively.

20   Q     In the next paragraph down on page E-40, Mr. Lundy, you talk  
21           about the increasing stringencies of regulatory review of  
22           proposed conversions. And at the bottom of the page you say,  
23           "State attorneys general have filed lawsuits not only to set  
24           aside the full value of conversion proceeds for charitable  
25           use, but to maintain and protect the charitable assets from

1 distribution to out-of-state charitable conversion  
2 foundations by health systems merging and acquiring other  
3 plans in other states." Do you see that?

4 A Yes.

5 Q In our case here, the goal of such a claim by state attorney  
6 general to set aside the full value of conversion proceeds  
7 for charitable use has already been accomplished by the  
8 Premera proposal, has it not?

9 A Appears to me to be, yes.

10 Q Okay. At the bottom of page E-41 you say, "Change of" --  
11 excuse me. "Choice of tax status is revocable, and a few  
12 healthcare conversion foundations have sought to change their  
13 tax status successfully after gaining experience in  
14 philanthropy." Do you see that?

15 A Yes.

16 Q Can you give me an example or two where that has happened and  
17 tell me why it has happened?

18 A At least in one case that I report on page E-42, the  
19 Connecticut Health Foundation was originally established as a  
20 501(c)(4) organization with certain (c)(3) restrictions in  
21 its bylaws. But it subsequently concluded to convert to a  
22 501(c)(3) private foundation in July of 2002. And that was  
23 at the behest of the attorney general of the State of  
24 Connecticut. I do not know the reasons why the attorney  
25 general was moved to cause that to be the case.

1 attorney's-eyes-only information has been redacted and  
2 therefore is the public version of Mr. Reid's report and use  
3 that primarily so we don't have to worry about dealing with  
4 AEO information in the course of the questions to come.

5 You said, I think, this morning, Mr. Lundy, that you had  
6 read Mr. Reid's report, and obviously you've done that within  
7 the last week or so. I want to ask you a series of questions  
8 about Mr. Reid's report, if I might.

9 The first question concerns the first sentence in the  
10 executive summary on page 1. Mr. Reid says that, "The  
11 Conversion Transaction serves the public interest by  
12 permitting Premera to continue as a vital company with access  
13 to the capital markets, while unlocking the charitable  
14 potential in its assets by adding two new large sources of  
15 philanthropic health funding in the states of Washington and  
16 Alaska."

17 Do you agree with that statement, Mr. Lundy?

18 A Yes.

19 Q On page 2 of the report, the last sentence of the --

20 A The reason I hesitated -- and I want to caveat that response,  
21 yes, is that I believe that it is an accurate statement. I  
22 believe that there are other ways to achieve the same  
23 objective, but that I believe that what is stated here is, in  
24 fact, accurate.

25 Q Okay. On page 2, the top of the page, last sentence of the

1 executive summary, I think Mr. Reid gets the prize for the  
2 shortest executive summary.

3 A Yes.

4 Q He says, "The structure of the Proposed Transaction will  
5 maximize the potential economic benefit to charities by  
6 minimizing the taxes incurred in the process of realizing the  
7 value of the initial stock of New Premera issued to the  
8 Foundation Shareholder and transferring the proceeds to the  
9 Charitable Organizations." Do you agree with that?

10 A Yes.

11 Q The first sentence under heading 1 in Mr. Reid's report  
12 reads, "At the present time, the entire value of Premera is  
13 held in its taxable nonprofit corporate structure." Do you  
14 agree with that?

15 A Yes.

16 Q We can turn over now to --

17 A One qualification I wanted to make with that response as well  
18 'cause there are indications throughout this part of  
19 Mr. Reid's report, I believe that Premera is, in fact,  
20 treated for federal income tax purposes as a taxable entity.  
21 However, I believe that Premera continues to be an  
22 organization described in Section 501(c)(4) and that, in  
23 fact, Section 501(m), which is identified by Mr. Reid, merely  
24 serves to deprive Premera of the benefits of being described  
25 in 501(c)(4), but does not revoke its status as a 501(c)(4)

1 made expressly applicable to 501(c)(4) as well as to  
2 501(c)(3) entities. The question that it generates is the  
3 extent to which section 4948 of the Internal Revenue Code is  
4 it still applicable to an entity that was a 501(c)(4) entity  
5 when Section 501(m) was enacted.

6 I'm not sure I know the answer. I think I technically  
7 know the answer. I'm not sure that that's the intent. It  
8 was never fully discussed from a congressional perspective.

9 But the reason I don't know the answer to your question  
10 is that I have a suspicion or a recollection that Premera was  
11 created post the adoption of 501(m); and therefore, it would  
12 never have sought 501(c)(4) status. Having not been  
13 officially recognized as such, I don't believe that it is  
14 fair to say that it would have ever been reasonably  
15 categorized as a 501(c)(4) organization.

16 whereas, Premera Blue Cross went through a process and  
17 was recognized and did for many years file tax returns as a  
18 501(c)(4) organization; and therefore, it is different from  
19 that perspective. Subtle, but it is there.

20 Q Tax lawyers' practice consists of subtleties, I think, does  
21 it not?

22 A Right.

23 Q Just to make sure I understand where we came out in all of  
24 that, Mr. Lundy, the statement that says that, "The entire  
25 value of Premera is held in its taxable nonprofit corporate

1 structure," that is accurate to the best of your knowledge,  
2 is it not?

3 A That is correct.

4 Q Okay. If we can turn over to page 4, I want to focus your  
5 attention on the first full paragraph there. The third  
6 sentence in this paragraph says, "Given the practice of  
7 charities to pursue programs that leverage their assets for  
8 greater social impact, their influence could well be much  
9 greater than the size of their endowments." Do you see that?

10 A Yes.

11 Q Do you agree with that?

12 A Yes.

13 Q Heading 2 of this section of Mr. Reid's report says that,  
14 "Section 501(m) of the Internal Revenue Code Has Been a  
15 Significant Driver of Blue Cross/Blue Shield Conversions."  
16 Is that correct to your knowledge?

17 A Yes.

18 Q Can you explain briefly how it has functioned as a driver in  
19 this regard?

20 A Once the benefit of federal tax exemptions under 501(a) was  
21 repealed in the case of an entity that was deemed to be  
22 substantially engaged in commercial-insurance-type  
23 activities, the benefits to be obtained from compliance with  
24 the general provisions of tax exemptions were no longer  
25 sufficiently attractive to justify the effort and at times



1 inconvenience of having to address those matters.

2 And therefore, since the entity was for federal tax  
3 purposes being treated as if it were for-profit, although the  
4 terminology is different for tax purposes, there was a  
5 judgment that it ought to be freed up, removed from the  
6 constraints of the nonprofit regime and permitted to go off  
7 in a for-profit direction, even though in some respects the  
8 focus of the benefits of the entity would no doubt shift from  
9 the policyholders, the individuals who are being served, to  
10 the shareholders.

11 Q I want to turn your attention now to page 5. Heading 3 of  
12 Mr. Reid's report says, "The Proposed Conversion Transaction  
13 Is Designed to Deliver the Greatest Dollars to the Charitable  
14 Organizations."

15 I believe you have already testified that you agree with  
16 that, right?

17 A Yes.

18 Q Mr. Reid explains that, "The use of a 501(c)(4) organization  
19 as the foundation shareholder will facilitate the transaction  
20 and the ultimate realization of the maximum value for  
21 charity. This will be provide more transactional flexibility  
22 than would be available if a 501(c)(3) organization received  
23 the New Premera stock."

24 Do you agree with that?

25 A I do. I caveat both that response as well as the immediately

1 prior response with the fact as I've already testified that,  
2 in fact, even a few more dollars would be available for the  
3 benefit of the citizens who will ultimately benefit from  
4 these organizations were there to be just (c)(4)  
5 organizations.

6 However, for the reasons that I've already given, I  
7 understand and still believe that the model using the two  
8 tiers still makes more sense. But maximizing purely from a  
9 dollars-and-cents perspective, the availability of the  
10 dollars would flow from using just 501(c)(4) organizations.

11 Q But certainly relative to using 501(c)(3) there's no  
12 question.

13 A No question.

14 Q Beginning on page 6, there are a series of subheadings that  
15 Mr. Reid uses in his report, "No gain taxed on the  
16 conversion." "No gain taxed on the receipt or sale of  
17 stocks." "No 2% federal excise on sale of stocks." "No  
18 federal excise tax on 'excess business holdings.'" "No  
19 federal excise tax on performance of agreements related to  
20 stock ownership and sale." "No federal excise tax based upon  
21 5% minimum distribution requirement for the foundation  
22 shareholder."

23 Do you agree with all of those statements as being  
24 accurate descriptions of the advantages of the proposal?

25 A Yes.

1 agreements, relating to other transactions to make a  
2 judgment.

3 Q Okay. At the bottom of page 12, Mr. Reid refers to his own  
4 experience, I gather, in California. I believe he said that  
5 he's -- he was with the California endowment?

6 A That's correct.

7 Q And he says that the experience there suggested that the  
8 restrictions under which shares were distributed did not  
9 cause problems to him -- to him or more importantly to the  
10 foundation. Do you have any reason to differ with Mr. Reid  
11 on that judgment?

12 A I do not.

13 Q In fact, is the California experience one of the most  
14 positive in terms of conversions and resulted good benefit  
15 for the public?

16 A That's my general understanding.

17 Q At the top of page 13, Mr. Reid says, "Restrictions in the  
18 Transaction Agreements Will Not Necessarily Reduce the Value  
19 of the Assets going to Charity."

20 Do you have any basis to agree or disagree with that?

21 A I have no basis.

22 Q On the top of page 14, here Mr. Reid appears to take issue  
23 with consultants other than yourself. He says that there's  
24 been "a suggestion that the IPO should be closed on the date  
25 the conversion transaction is given regulatory approval, or

1 conversion transaction is superior to the alternatives.

2 A That's correct.

3 Q So when you read Mr. Reid's report, Mr. Lundy, did you  
4 generally agree with it?

5 A As a general proposition, I did.

6 Q Did you have any significant disagreements with it?

7 A I have no significant disagreements with it.

8 Q Okay. We're five after 3:00. Maybe we should take a brief  
9 break, and I think we can be relatively assured we can  
10 conclude this deposition today.

11 (Brief pause in proceedings.)

12 (Exhibit No. 5 through 9 marked for  
13 identification.)

14

15 MR. MITCHELL: I guess we're back on the record.

16 Q (By Mr. Mitchell) Mr. Lundy, we've premarked some exhibits,  
17 and the first of those, I think, is Exhibit No. 5.

18 A Yes.

19 Q Can you identify this document for us, please?

20 A This appears to be a early draft of my part of the  
21 PricewaterhouseCoopers report, Exhibit E to the full report  
22 of PricewaterhouseCoopers.

23 Q Exhibit 1, you mean?

24 A Exhibit 1 starting at page E-1.

25 Q Can you give us your best sense of when this draft was

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C E R T I F I C A T E

I, SUE E. GARCIA, a duly authorized Court Reporter and Notary Public in and for the State of Washington, residing at Tacoma, do hereby certify:

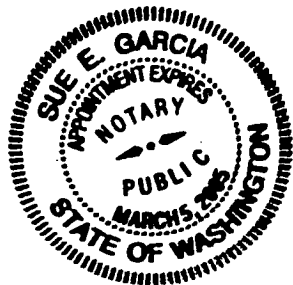
That the foregoing deposition of JOSEPH E. LUNDY was taken before me on the 17th of November, 2003, and thereafter transcribed by me by means of computer-aided transcription, that the deposition is a full, true, and complete transcript of the testimony of said witness;

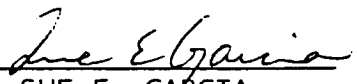
That the witness, before examination, was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth, and that the witness RESERVED signature;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That upon completion of signature, if required, I shall herewith securely seal the original deposition transcript and serve the same upon ROBERT B. MITCHELL, counsel for PREMIER.

IN WITNESS HEREOF, I have hereunto set my hand and affixed my official seal this November 22, 2003.



  
SUE E. GARCIA  
WA Lic. NO. 2781

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BEFORE THE INSURANCE COMMISSIONER  
OF THE STATE OF WASHINGTON

---

In the Matter of the Application )  
regarding the Conversion and )  
Acquisition of Control of Premera Blue )  
Cross and its Affiliates. ) No. G 02-45

---

DEPOSITION UPON ORAL EXAMINATION OF  
JOSEPH E. LUNDY  
March 10, 2004  
Seattle, Washington

---

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Taken Before:  
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[www.capitolpacificreporter.com](http://www.capitolpacificreporter.com)

1 A Thank you.

2 MR. HAMJE: So then we will reconvene, say, around  
3 1:30? Will that work for you? A little bit later maybe?

4 MR. BINNEY: 1:30 is fine.

5 MR. HAMJE: Why don't we aim for 1:30, then.

6 MR. BINNEY: Recognizing you can't start without  
7 me.

8 (Lunch recess.)

9  
10 (Deposition Exhibit No. 3 marked for  
11 identification.)

12 (Mr. Marquardt joins by telephone.)

13  
14 Q (By Mr. Binney) Mr. Lundy, have you reviewed Mr. Reid's  
15 supplemental report pertaining to the -- pertaining to this  
16 conversion for the Washington conversion proceeding?

17 A I have.

18 Q Now, some of this report does not relate to tax issues, I  
19 assume.

20 A That is correct.

21 Q And I do not, unless you have some knowledge or expertise in  
22 some of the others --

23 First of all, let me ask you: Do you have any knowledge  
24 or expertise in any of the nontax areas that are discussed in  
25 this report?

1 A I do. But I have no opinions to express in that regard.

2 Q Okay. With respect to the tax discussions in this report, in  
3 your review of the report, did you note any areas of  
4 disagreement with Mr. Reid?

5 A No.

6 Q In particular, do you agree that it would make sense to use  
7 the time that it would otherwise take to get some kind of a  
8 determination letter in advance of the transaction to instead  
9 just actually seek recognition of the status?

10 A Yes. I would qualify that and say that that determination,  
11 that decision, makes more sense to me than the alternative.  
12 However, would there -- were there a significant holdup,  
13 there may be a time when all of the parties, more so even  
14 Premera than anybody else, might regret not having had a  
15 presubmission conference to identify whether there were items  
16 that could be easily corrected prior to the submission.

17 On balance, with all of the attention that these  
18 documents have received, I tend to think that that is not  
19 likely. However, I submit that, like a lot of things, there  
20 can be no certainty that after the fact somebody might not  
21 conclude that were there -- were there to have been a  
22 presubmission conference, it might have resulted in a more  
23 ultimately speedy determination process.

24 Another potential benefit of the presubmission  
25 conference process is that it would likely ensure that the



1 Q So even if you go through the presubmission conference, no  
2 guarantee you're going to get a speedy result?

3 A No. I think it depends upon the complexity of the questions  
4 that are presented, the uniqueness of the circumstances. In  
5 my judgment, the circumstances here are not particularly  
6 challenging, unique, or difficult, nowhere near the  
7 complexity of the one that I identified a moment ago.

8 Q In your review of this report, did you find any conclusion or  
9 assertion that Mr. Reid makes with which you specifically  
10 disagreed?

11 A No.

12 MR. BINNEY: Off the record.

13 (Brief discussion off the record.)  
14

15 Q (By Mr. Binney) Back on the record.

16 Mr. Lundy, that concludes my questions of you today. I  
17 want to thank you for your time, and I've enjoyed having a  
18 chance to talk to you.

19 A Thank you.

20 MR. HAMJE: And OIC staff has no questions at this  
21 time for Mr. Lundy.

22 (Deposition concluded at 2:12 p.m.)

23 (Signature Reserved.)  
24  
25

C E R T I F I C A T E

I, SUE E. GARCIA, a duly authorized Court Reporter and Notary Public in and for the State of Washington, residing at Tacoma, do hereby certify:

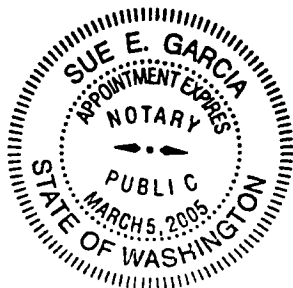
That the foregoing deposition of JOSEPH E. LUNDY was taken before me on the 10th of March, 2004, and thereafter transcribed by me by means of computer-aided transcription, that the deposition is a full, true, and complete transcript of the testimony of said witness;

That the witness, before examination, was by me duly sworn to testify to the truth, the whole truth, and nothing but the truth, and that the witness RESERVED signature;

That I am not a relative, employee, attorney, or counsel of any party to this action or relative or employee of any such attorney or counsel, and I am not financially interested in the said action or the outcome thereof;

That upon completion of signature, if required, I shall herewith securely seal the original deposition transcript and serve the same upon DAVID H. BINNEY, counsel for PREMERA .

IN WITNESS HEREOF, I have hereunto set my hand and affixed my official seal this March 16, 2004.



*Sue E. Garcia*  
SUE E. GARCIA  
WA Lic. No. 2781